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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,081	09/19/2005	Aster De Schrijver	05261-PCT-PA	1440
72468 7590 01/08/2010 HODES, PESSIN & KATZ, P.A. 901 DULANEY VALLEY ROAD, SUITE 400 BALTIMORE, MD 21204				
EXAMINER				
NGO, LIEN M				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
01/08/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,081

Applicant(s)

DE SCHRIJVER, ASTER

Examiner

LIEN TM NGO

Art Unit

3754

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-8, 10, 11 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-8, 10, 11 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 10, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Soffer et al. (2,831,618). Soffer et al. discloses, in fig. 2 and 3, a valve for a container, which is capable of dispensing a polyurethane foam, adapted to be in contact with the container and the contents of the container comprising a grommet disposed around a central stem 22 of the valve, the grommet having at least one part 14 made of non-thermoplastic rubber adhering to another part 28 made of a thermoplastic material (hard rigid plastic such as polyethylene, see col. 2, lines 66-65), wherein said another part 28 is located such as to be, at least partly, in contact with the content of the container.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soffer et al.,

In regard to claim 4, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make grommet in the invention of Soffer et al. from EPDM as the non-thermoplastic rubber part and Trefsin or Santoprene as thermoplastic material part, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416).

In regard to claim 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Soffer et al grommet from a dual injection technique in order to form one piece of an article which has formerly formed in two pieces and put together

It has been held that forming in one piece an article which has formerly formed in two pieces and put together involves only routine skill in the art. Howard v. Detroit Stove Works, 150 U.S 164 (1893).

5. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soffer et al. further in view of Shimizu et al. (JP 2000-109748).

A silicone base position is using for coating a surface of sealing material, which is well known in the art, as taught by Shimizu et al., for water resistance, air tightness, etc.; therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to coat the grommet of Softer et al. with silicone

base composition, as taught by Shimizu et al., in order to enhance the sealing property of the grommet.

Response to Arguments

6. Applicant's arguments filed 9/23/09 have been fully considered but they are not persuasive.

Applicant argues that Soffer et al. (2,831,618) do not disclose a grommet disclosed around a central stem of the valve, the grommet having at least one part made of non-thermoplastic rubber adhering to another part made of a thermoplastic material, wherein said another part is located such as to be, at least partly, in contact with the content of the container. However, that is not found convincing because Soffer et al. disclose, in fig. 2 and 3, a valve for a container, which is capable of dispensing a polyurethane foam, adapted to be in contact with the container and the contents of the container comprising a grommet disposed around a central stem 22 of the valve, the grommet having at least one part 14 made of non-thermoplastic rubber adhering to another part 28 made of a thermoplastic material (hard rigid plastic such as polyethylene, see col. 2, lines 66-65), wherein said another part 28 is located such as to be, at least partly, in contact with the content of the container.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., moisture uptake, sealing properties, snappiness, moisture repellent, a single grommet, etc. as described in the specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

John et al. (4,908,884) teach a grommet seal for a tilting valve comprising two materials 22, 32 molding together.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LIEN TM NGO/
Primary Examiner, Art Unit 3754

January 5, 2010